

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION**

**MICHAEL WILLIAMS and  
MICHELLE WILLIAMS**

**PLAINTIFFS**

**v.**

**CIVIL ACTION NO. 1:06-cv-00055-LTS-RHW**

**STATE FARM FIRE AND CASUALTY COMPANY**

**DEFENDANT**

**PLAINTIFFS' RESPONSE TO DEFENDANT'S MOTION FOR PARTIAL SUMMARY  
JUDGMENT AS TO FIDUCIARY DUTY AND PUNITIVE DAMAGES AND  
EXTRA CONTRACTUAL DAMAGES CLAIMS**

**COME NOW** Plaintiffs, Michael Williams and Michelle Williams, by and through their attorneys of record, and file this Response to Defendant's, State Farm Fire and Casualty Company's, Motion for Partial Summary Judgment as to Fiduciary Duty and Punitive Damages and Extra Contractual Damages Claims, stating as follows:

1. Plaintiffs do not oppose Defendant's Motion for Partial Summary Judgment on the issue of fiduciary duty.
2. Plaintiffs deny that Defendant is entitled to partial summary judgment on Plaintiffs' punitive damages and extra contractual claims since Defendant has acted in a manner justifying punitive and extra contractual damages by developing and utilizing a procedure for handling Katrina insurance claims, especially those involving slabs, which is clearly contrary to Defendant's policy and to Mississippi law and by failing to pay Plaintiffs' claims for covered losses even though Defendant had no basis for such refusal, and by persisting in its

failure to pay Plaintiffs' claims. State Farm has compounded its bad faith by relying on the "concurrent cause" language in its policy, clearly contrary to Mississippi law, and by falsely stating that it has not done so in spite of claims handling documents to the contrary.

**3.** Plaintiffs' respond to the Itemization of Facts as follows:

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted it did some "investigation" but denied it did a good faith investigation since it admitted it did no investigation to determine if wind arrived first and caused damage; rather, it looked at the National Weather documents and if the surge line was high enough to have destroyed the dwelling, it denied the claim.
5. Denied.
6. Denied.
7. Denied.
8. Admitted.
9. Denied as stated, the policy language not being quoted or properly summarized especially as to the invalid concurrent cause language.
10. Admitted except to the extent denied in the previous response.
11. Admitted.

**4.** In support of this Response, Plaintiffs rely upon their Memorandum in Opposition

to Defendant's Motion for Partial Summary Judgment as to Fiduciary Duty and Punitive Damages and Extra Contractual Damages Claims, to the Exhibits relied upon by Defendant, and upon the following attached hereto:

- A. Deposition of Terry H. Blalock in *Broussard v. State Farm*;
- B. Deposition of Terry H. Blalock in *Tejedor v. State Farm*;
- C. Deposition of Terry H. Blalock in *Gemmill v. State Farm*;
- D. 30(b)(6) Deposition of Marsha Slaughter;
- E. Number 75-20 Claim Practices: Water Damage Losses;
- F. Number 75-104 Claim Practices: Claim Interpretation– Losses Not Insured;
- G. Wind / Water Protocol.

WHEREFORE, PREMISES CONSIDERED, it is respectfully submitted that State Farm's Motion for Partial Summary Judgment on Punitive Damages and Extra Contractual Damages Claims should be denied.

**RESPECTFULLY SUBMITTED**, this the 22<sup>nd</sup> day of November, 2006.

MICHAEL WILLIAMS and  
MICHELLE WILLIAMS  
Plaintiffs

BY: s/William C. Walker, Jr.  
WILLIAM C. WALKER, JR.

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**CERTIFICATE OF SERVICE**

I, WILLIAM C. WALKER, JR., attorney of record for the Plaintiffs, do hereby certify that I have electronically filed the foregoing pleading to the Clerk of the Court using the ECF system which sent notification of such filing to: John A. Banahan, Esquire and H. Benjamin Mullen, Esquire.

This the 22<sup>nd</sup> day of November, 2006.

s/William C. Walker, Jr.  
WILLIAM C. WALKER, JR.